

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LAURIE BOLLINGER,

Plaintiff,

v.

DAVID THAWLEY, an individual, ESMail
ZANJANI, an individual, UNIVERSITY AND
COMMUNITY COLLEGE SYSTEM OF
NEVADA, a political subdivision of the State
of Nevada,

Defendants.

03:05-CV-0155-LRH-RAM

ORDER

Presently before the court is Plaintiff Laurie Bollinger's Motion to Stay Judgment Pending Appeal (#59¹). Defendants David Thawley, Esmail Zanjani, and the University and Community College System of Nevada have filed an opposition to Plaintiff's motion (#60).

I. Procedural History

On February 5, 2007, this court granted Defendant's motion for summary judgment. Judgment was entered the following day. On March 5, 2007, the clerk taxed costs at \$1,388.65 in favor of Defendants. On October 5, 2007, Plaintiff filed a motion asking this court to stay its judgment on the bill of costs pending Plaintiff's appeal (#59).

¹ Refers to the court's docket.

1 **II. Discussion**

2 Plaintiff's motion asks this court to stay execution on the bill of costs pending the
3 outcome of her appeal. Further, Plaintiff states she is willing to post a \$300 bond with the clerk to
4 secure a stay.

5 Plaintiff's motion for a stay is deficient because it does not comply with Federal Rule of
6 Civil Procedure 62(d). That rule provides the following:

7 If an appeal is taken, the appellant may obtain a stay by supersedeas bond The bond
8 may be given upon or after filing the notice of appeal or after obtaining the order
allowing the appeal. The stay takes effect when the court approves the bond.

9 This court's authority to issue a stay is generally conditioned upon approval of a bond. *Vacation*
10 *Village, Inc. v. Clark Cnty.*, 497 F.3d 902, 913 (9th Cir. 2007) ("Federal Rule of Civil Procedure
11 62(d) . . . requires only that the appellant post a supersedeas bond in order to obtain a stay on
12 appeal."); *Columbia Pictures Television, Inc. v. Krypton Broadcasting of Birmingham, Inc.*, 259
13 F.3d 1186, 1197 n.6 (9th Cir. 2001) ("An appellant may obtain a formal stay of the judgment
14 pending appeal by posting a supersedeas bond."). Here, Plaintiff has not posted a bond to secure
15 her obligation to pay the bill of costs. While there is some authority for the proposition that this
16 court may grant a stay without requiring Plaintiff to post a bond, *see In re Combined Metals*
17 *Reduction Co.*, 557 F.2d 179, 193 (9th Cir. 1977), Plaintiff has neither presented any evidence nor
18 mitigating circumstances that would warrant exercise of this discretion. Plaintiff's motion is
19 therefore denied.

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1 IT IS THEREFORE ORDERED that Plaintiff's Motion to Stay Judgment Pending Appeal
2 (#59) is DENIED.

3 IT IS SO ORDERED.

4 DATED this 25th day of February, 2008.

A handwritten signature in blue ink, appearing to read "L. Hicks", is written over a faint circular stamp.

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7 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE